

MATTER OF PETUOGLU

In Section 212(e) Proceedings

A-12975352

Decided by District Director December 11, 1964

A native and citizen of Turkey, whose initial application for waiver of the 2-year foreign-residence requirement of section 212(e), Immigration and Nationality Act, as amended, was denied for failure to establish exceptional hardship to his United States citizen wife; who, with his wife, departed to Canada in June 1962 with the intention of complying with the foreign-residence requirement; and who was advised upon completion of 2 years' residence in Canada that such residence had not served the purpose and intent of the Mutual Educational and Cultural Exchange Act, is granted a waiver of the foreign-residence requirement since compliance therewith would impose exceptional hardship upon his United States-citizen child born in Canada November 17, 1963, who will require extensive medical care and surgery to correct a congenital physical defect.

The applicant, Doctor Stepan Petuoglu, is a thirty-three year old male physician, a native and citizen of Turkey. He was first admitted to the United States as an exchange visitor on June 28, 1957, for an internship and residency in medicine. From 1957 to 1958 he was an intern at Bergen Pines County Hospital, New Jersey; from 1958 to 1961 he was in residency at Missouri Pacific Hospital, St. Louis, Missouri; and from 1961 to 1962 he was in training in hematology at Baylor University Medical Center, Dallas, Texas. Doctor Petuoglu departed from the United States and entered Canada in June 1962. He was accompanied by his United States citizen wife, Norma Jean Petuoglu, whom he married on October 8, 1961. The applicant and his family have resided in Canada since June 1962. On October 29, 1962, Doctor Petuoglu submitted an application for a waiver of the requirements of section 212(e); however, exceptional hardship could not be established at that time and the application was denied.

His departure from the United States in June 1962 to Canada was made with the intention of complying with the two-year foreign residence requirement. Upon completion of two years of residence

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in Canada, Doctor Petuoglu applied for his visa and on September 1, 1964, was advised that his "residence in Canada has not served the purpose and intent of the Mutual Educational and Cultural Exchange Act".

The applicant now has a minor United States citizen child, Diane Sona Petuoglu, who was born in Canada on November 17, 1963. Evidence presented by the attending physician shows the child was born with a physical defect referred to as Pierre Robin Syndrome, which is characterized by cleft palate and receding lower jaw. The child will require extensive medical care and surgery to correct her condition. The applicant states that he has been offered a good position in St. Louis, Missouri, which will provide adequate salary and medical facilities to secure whatever medical treatments are required for his daughter.

Satisfactory evidence of Doctor Petuoglu's marriage to a United States citizen and the birth of his child have been presented.

In view of the foregoing, it has been determined that compliance with the foreign residence requirement of section 212(e) of the Act would impose exceptional hardship upon the applicant's United States citizen child. The Secretary of State has recommended that the foreign residence requirement be waived. Therefore, the following order is entered.

ORDER: It is ordered that the application of Doctor Stepan Petuoglu for a waiver of the two-year foreign residence requirement of section 212(e) of the Immigration and Nationality Act be and is hereby granted pursuant to the authority contained in the statute.